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Attorneys for Plaintiffs
AHSAN KAHN, et al.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AHSAN KHAN AND SALEHA KHAN,
individually and on behalf of their minor
children, IRFAN KHAN, ASIF KHAN,
NOREEN KHAN, KAYNAT KHAN,
LAIBA KHAN and BILAL KHAN, and
RHEANNA KHAN, individually,

Plaintiffs,

vs.

SAN FRANCISCO HOUSING
AUTHORITY,

Defendants.

Case No.: CV 07-6209 CW

**DECLARATION OF MARY J. HAHN
IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANT'S
MOTION TO DISMISS THE THIRD
AND FOURTH CLAIMS FOR
RELIEF IN PLAINTIFFS' FIRST
AMENDED COMPLAINT**

1 I, Mary J. Hahn, hereby state as follows:

2 I am over the age of eighteen and am competent to make this Declaration. I have
3 personal knowledge of the matters set forth below. I offer this declaration to authenticate the
4 following documents submitted as exhibits to Plaintiffs' Opposition to Defendant's Motion to
5 Dismiss the Third and Fourth Claims for Relief in Plaintiffs' First Amended Complaint.

6 1. I am an attorney at the law firm of Relman & Dane, PLLC. I represent the
7 Plaintiffs in the above-captioned lawsuit.

8 2. Attached to and filed as Exhibits 1 through 3 to this Declaration are true and
9 correct copies of documents discussed in paragraphs 51 and 53 of First Amended Complaint in
10 this lawsuit.

11 3. Exhibit 1 is a true and correct copy of the administrative complaint filed with the
12 United States Department of Housing and Urban Development, discussed in paragraph 51 of the
13 First Amended Complaint.

14 4. Exhibit 2 is a true and correct copy of the claim filed with the San Francisco
15 Housing Authority, discussed in paragraph 53 of the First Amended Complaint.

16 5. Exhibit 3 is a true and correct copy of the rejection letter from the San Francisco
17 Housing Authority, discussed in paragraph 53 of the First Amended Complaint.

18
19 I hereby declare under penalty of perjury that the foregoing is true and correct to the best
20 of my knowledge and belief.

21
22 EXECUTED WITHIN THE UNITED STATES ON: April 10, 2008
23

24
25 BY: 

26 Mary J. Hahn
27
28

**CERTIFICATE OF SERVICE
NORTHERN DISTRICT OF CALIFORNIA**

I hereby certify that on April 10, 2008, a copy of the foregoing Plaintiffs' Memorandum of Points and Authorities in Opposition to Defendant's Motion to Dismiss the Third and Fourth Claims for Relief in Plaintiffs' First Amended Complaint was electronically filed and by operation of the Court's ECF System was served upon the following:

Kevin K. Cholakian
Vivian Leung Lerche
Cholakian & Associates
5 Thomas Mellon Circle, Suite 105
San Francisco, CA 94134
Telephone: 415-467-8200

/s/ Kate Berry

Kate Berry

EXHIBIT

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HOUSING DISCRIMINATION COMPLAINT

CASE NUMBER: Title VIII 09-06-0866-8
Title VI 09-06-0866-6

APR 07 2006

1. **Complainants**

Ahsan Khan
c/o Jean Crawford, Bay Area Legal Aid
P.O. Box 1840
San Jose, CA 95109-1840

Representing Ahsan Khan:

Jean Crawford
Bay Area Legal Aid
P.O. Box 1840
San Jose, CA 95109-1840
Phone: 408-283-3700 Fax:

2. **Other Aggrieved Persons**

Saleha Khan

Rehana Khan

Irsan Khan

Asif Khan

Noreen Khan

Kaynat Khan

Laida Khan

Bilal Khan

3. **The following is alleged to have occurred or is about to occur:**

Discriminatory refusal to rent.
Discriminatory terms, conditions, privileges, or services and facilities.
Discriminatory acts under Section 818 (coercion, Etc.).

4. The alleged violation occurred because of:

National origin.

5. Address and location of the property in question (or if no property is involved, the city and state where the discrimination occurred):

803 Missouri St.
San Francisco, CA 94107

6. Respondent(s)

San Francisco Housing Authority
440 Turk St.
San Francisco, CA 94102

7. The following is a brief and concise statement of the facts regarding the alleged violation:

The complainant is Middle Eastern. The respondent is the San Francisco Housing Authority, through which the complainant and his family received housing assistance through the respondent's conventional housing program.

In May of 2005, the complainant and his family moved into a unit provided by the respondent. A few weeks later, an unknown person drew a picture of a man with a beard with a gun to his head on a wall next to the complainant's front door. A representative of the respondent painted over the drawing.

On August 28, 2005, an unknown person or persons burglarized the complainant's unit, stealing personal property and destroying traditional clothing worn by the complainant and his family, as well as destroying the family's passports. The complainant and his family left the public housing unit on that date and moved to Santa Clara to stay with friends and had the mail forwarded to the complainant's representative in San Jose. The respondent did not secure the complainant's public housing unit, so over the next month, unknown persons continued to burglarize the complainant's unit.

On August 29, 2005, the complainant requested that the respondent move the complainant and his family to another complex. On September 8, 2005, the respondent denied the request, stating the complainant was ineligible for transfer because he had not lived in the unit for at least a year. After the complainant appealed the decision, the respondent put the complainant on a priority transfer list in October of 2005.

On November 14, 2005, the complainant received a letter from the respondent regarding an available unit. The letter was dated November 1, 2005 and was mailed to the complainant's public housing unit, which the complainant had not occupied since August, which the respondent knew. The respondent also had the address for the complainant's representative to whom the respondent had mailed other correspondence for the complainant. The letter stated the complainant had 3 days to respond to the letter or the complainant would be removed from the priority transfer list.

On December 12, 2005, the complainant received a letter from the respondent stating the complainant owed rent from September through December of 2005 for the unit the complainant had vacated due to the harassment. The respondent was aware the complainant had not lived at the unit since August 28, 2005.

8. The most recent date on which the alleged discrimination occurred:

December 12, 2005.

9. Types of Federal Funds identified:

Public and Indian Housing.

10. The acts alleged in this complaint, if proven, may constitute a violation of the following:

Sections 804a or f, 804b or f and 818 of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988.

Title VI of the 1964 Civil Rights Act.

Please sign and date this form:

I declare under penalty of perjury that I have read this complaint (including any attachments) and that it is true and correct.



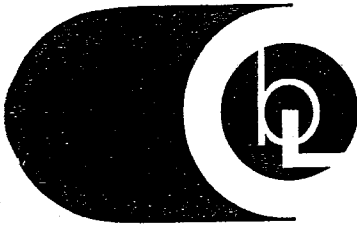
Ahsan Khan

4/4/06
(Date)

N O T E : HUD WILL FURNISH A COPY OF THIS COMPLAINT TO THE PERSON OR ORGANIZATION AGAINST WHOM IT IS FILED.

EXHIBIT

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**BAY AREA LEGAL AID****WORKING TOGETHER FOR JUSTICE**

March 7, 2006

Clerk or Secretary of the Commission of the
San Francisco Housing Authority
440 Turk Street
San Francisco, California 94102

Re: Claim of Ahsan Khan on his own behalf, on behalf of Saleha Khan and Rehana Khan, and on behalf of his minor children, Irsan Khan, Asif Khan, Noreen Khan, Kaynat Khan, Laida Khan, and Bilal Khan

Pursuant to Government Code Section 910, claimants, by and through their attorneys, hereby present the following claim:

1. Name and Postal Address for Claimants:

- Claimants: Ahsan Khan on his own behalf, on behalf of Saleha Khan and Rehana Khan, and on behalf of his minor children, Irsan Khan, Asif Khan, Noreen Khan, Kaynat Khan, Laida Khan, and Bilal Khan
- Postal Address: c/o Jean Crawford, Esq., Bay Area Legal Aid, P.O. Box 1840, San Jose, CA 95109-1840
- Telephone Number: Jean Crawford, Esq. Bay Area Legal Aid (408) 283-3700 extension 2667

2. Postal Address to which Notices are to be Sent:

Postal Address: c/o Jean Crawford, Esq., Bay Area Legal Aid, P.O. Box 1840, San Jose, CA 95109-1840

3. Date, Place and Circumstances of Occurrence:

Continuing from May 2005 through to the present. The claim arises from the following circumstances:

- In May of 2005, claimants moved to 803 Missouri Street in San Francisco, public housing operated by San Francisco Housing Authority (SFHA). Two weeks later, another tenant in the complex said to claimant Ahsan Khan, "Oh, we have Osama

Santa Clara County Regional Office
2 West Santa Clara Street, 8th Floor
P.O. Box 1840
San Jose, CA 95109

Phone: 408.283.3700
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www.baylegal.org

Bin Laden living with us.” Approximately two weeks later, a drawing of a man with a beard and a gun pointed at his head appeared on the wall next to claimants’ front door. SFHA staff painted over it, and again later, when it was redrawn.

- On August 28, 2005, claimants came home to a large hole in their living room wall where someone had taken access to their unit from a crawl space behind the wall. Personal property had been stolen, but most disturbing was the nature of the destruction. The traditional clothing of the claimants was torn into shreds, and each of seven passports was torn. Claimants telephoned 911. Police responded, inspected the unit and determined the point of entry. The crawl space was under the control of the SFHA with a padlocked door to which SFHA staff held the key. A bed and bicycle was found in the crawl space. Terrified, claimants fled to the home of a friend who housed them in the days following.
- On August 29, 2005, claimant Ahsan Khan reported the circumstances to SFHA staff at 440 Turk Street in San Francisco, who referred him back to the subject property manager. The property manager provided Claimant Ahsan Khan with a transfer request form for completion, instructing him to deliver it to SFHA district office on 90 Kiske Road in San Francisco. Ahsan Khan’s minor children were to start the school year on this day. No action was taken by SFHA staff to secure the unit, which continued to be vandalized and personal property taken, including a washer and dryer, on September 11, 2005, September 13, 2005, and September 26, 2005.
- On September 8, 2005, claimants received from SFHA, Nannette J. Sparks, a “NOTICE OF INELIGIBILITY FOR TRANSFER.” Under the transfer policy, a resident-initiated priority transfer is deemed appropriate to protect household members where the family member is the victim of a hate crime. Indicators for hate crimes are listed in the transfer policy and include: drawings at the premises (such as those painted next to claimants front door); objects which indicate bias left behind by the offenders (such as the tearing of traditional clothing and seven passports); the victim is a member of a national origin group that is outnumbered by members of another group where the victim lives (the number of residents of

Middle Eastern descent are outnumbered by the number of residents for whom the United States is their mother country); the victims perceive the incident to have been motivated by bias; and a historically established animosity exists between the victims' group and the offenders group.

- On September 17, 2005, claimants submitted to SFHA a request for a grievance hearing to address the notice of ineligibility.
- On September 29, 2005, claimants received a letter from SFHA scheduling a hearing date for October 4, 2005. The hearing officer's finding resulted in his written request "that the eligibility department re-evaluate the transfer request and consider approval of the transfer request."
- On November 1, 2005, claimants received from SFHA a "NOTICE OF UNIT OFFER" which also noted that the unit was not ready for immediate move in, that they needed to notify SFHA of acceptance or denial of the unit within 24 hours of the date of the letter, failure to accept without good cause would result in removal from the priority transfer wait list, and that they must otherwise respond in writing within 3 days or their name would be removed from the priority transfer wait list. With post office forwarding of their mail, claimants did not receive their mail until November 14, 2005.

4. Description and Nature of Damages and Injuries:

- Claimants' injuries and damages include: loss of housing, loss of personal property by theft or destruction, severe emotional distress, including, but not limited to, mental anguish, fear and anxiety, and out-of-pocket expenses. Claimants may have other injuries not yet determined, discovered or disclosed. The claim would not be within the jurisdiction of a limited civil case.

5. Name of Public Employee Causing Injury, Damage or Loss:

The San Francisco Housing Authority employees Greg Fortner, Nannette J. Sparks, Kim M. Reeder, and other unnamed employees, agents, managers and supervisors of the San Francisco Housing Authority (SFHA).

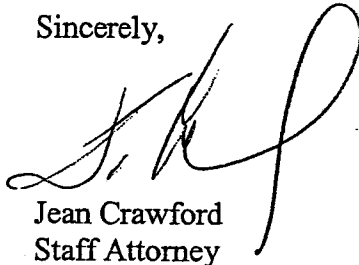
6. Causes of Action:

Possible causes of action include but are not limited to negligence; negligence *per se*; breach of the covenant of quiet enjoyment; breach of contract; housing discrimination on the basis of national origin, under Cal. Govt. Code §12900, et seq. (FEHA); the federal Fair Housing Act, 42 U.S.C. §3601, et seq.; violation of Business & Professions Code §17200, et seq.; injunctive and declaratory relief; attorneys costs and fees pursuant to C.C.P. §§1021, 1021.5 and 42 U.S.C. §3613 as permitted by law.

7. Amount of Claim:

Undetermined at this time. The actual amount is well in excess of the jurisdictional minimum of the Superior Court and shall be fairly and reasonable determined by a jury of local citizens according to law after hearing all of the evidence in this case.

Sincerely,



Jean Crawford
Staff Attorney

cc: Timquin Larsen, Office of General Counsel

EXHIBIT
3



SAN FRANCISCO HOUSING AUTHORITY

Office of General Counsel

440 Turk Street • San Francisco, California • 94102
(415) 554-1287 • Facsimile (415) 554-1204

May 3, 2006

Jean Crawford, Esq.
Bay Area Legal Aid
P.O. Box 1840
San Jose, CA 95109-1840

PROOF OF SERVICE VIA U.S. MAIL

REFERENCE: Claim Against the SFHA for Damages: DOI - May 2005 to present
SFHA Claim No.: 04-00403
On behalf of your client: Mr. Ahsan Khan

Dear Attorney Crawford:

We hereby acknowledge receipt of your claim presented to the San Francisco Housing Authority on March 13, 2006 for alleged damages, date of incident May 2005 through to the present.

Please be advised that this office has rejected your claim.


****WARNING****

Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail for file an action based on state law (See Government Code Section 945.6). You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Also, please be advised that any further activity related to your claim, including, but not limited to, discussion or correspondence between claimant, counsel for claimant or any individual acting on behalf of claimant, and the San Francisco Housing Authority or any individual or entity acting on behalf of the San Francisco Housing Authority, does not alter, amend, extend, rescind or otherwise change this rejection of your claim which is final and effective as of the date of this letter.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Sincerely,


Tim Larson

Attorney
Office of General Counsel

Cc: District Manager
Property Manager